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CRIME AS SOCIAL CONTROL*

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The sociological theory of social control predicts and explains how people define and respond to deviant behavior. One kind of social control is known as self-help: the expression of a grievance by unilateral aggression such as personal violence or property destruction. It is commonly believed that self-help was largely displaced by law in the Western world during the Middle Ages, and that it has survived primarily in the traditional—especially stateless—societies studied by anthropologists. In fact, much of the conduct classified as crime in modern societies such as the United States is similar to these traditional modes of social control and may properly be understood as self-help. Several implications follow, including the possibility of predicting and explaining a significant amount of crime with a sociological theory of self-help, itself a branch of the theory of social control.

There is a sense in which conduct regarded as criminal is often quite the opposite. Far from being an intentional violation of a prohibition, much crime is moralistic and involves the pursuit of justice. It is a mode of conflict management, possibly a form of punishment, even capital punishment. Viewed in relation to law, it is self-help. To the degree that it defines or responds to the conduct of someone else—the victim—as deviant, crime is social control.¹ And to this degree it is possible to predict and explain crime with aspects of the sociological theory of social control, in particular, the theory of self-help.² After an overview of self-

help in traditional and modern settings, the following pages briefly examine in turn the so-called struggle between law and self-help, the deterrence of crime, the processing of self-help by legal officials, and, finally, the problem of predicting and explaining self-help itself.

TRADITIONAL SELF-HELP

Much of the conduct described by anthropologists as conflict management, social control, or even law in tribal and other traditional societies is regarded as crime in modern societies. This is especially clear in the case of violent modes of redress such as assassination, feuding, fighting, maiming, and beating, but it also applies to the confiscation and destruction of property and to other forms of deprivation and humiliation. Such actions typically express a grievance by one person or group against another (see Moore, 1972:67–72). Thus, one anthropologist notes that among the Bena Bena of highland New Guinea, as among most tribes of that region, “rather than being proscribed, violent self-help is prescribed as a method of social control” (Langness, 1972:182).³ The same might be said of numerous societies throughout the world. On the other hand, violence is quite rare in many traditional societies, and at least some of

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¹ The concept of social control employed here refers specifically—and exclusively—to any process by which people define or respond to deviant behavior (Black, 1976:105). This is a broad category that includes such diverse phenomena as a frown or scowl, a scolding or reprimand, an expulsion from an organization, an arrest or lawsuit, a prison sentence, commitment to a mental hospital, a riot, or a military reprisal. But this concept entails no assumptions or implications concerning the impact of social control upon conformity, social order, or anything else, nor does it address the subjective meanings of social control for those who exercise or experience it.

² For these purposes, self-help refers to the expression of a grievance by unilateral aggression. It is

thus distinguishable from social control through third parties such as police officers or judges and from avoidance behavior such as desertion and divorce. (This conception of self-help derives from work in progress with M. P. Baumgartner.)

³ Illustrations of traditional self-help are given here in the present tense (known as the “ethnographic present” in anthropology), though many of the practices to be surveyed have changed considerably—if not disappeared altogether—since they were originally observed.

it is condemned in all. What follows is not intended as a representative overview, then, since only the more violent societies and modes of self-help are illustrated. First consider homicide.

In one community of Maya Indians in southern Mexico, for example, any individual killed from ambush is automatically labelled "the one who had the guilt." Everyone assumes that the deceased individual provoked his own death through an act of wrongdoing: "Homicide is considered a *reaction* to crime, not a crime in itself" (Nash, 1967:456). Similarly, it has been observed that in a number of equatorial African societies homicide is rarely predatory—committed for gain—but is nearly always related to a grievance or quarrel of some kind (Bohannan, 1960:256). The Eskimos of the American Arctic also kill people in response to various offenses, including adultery, insult, and simply being a nuisance (see Hoebel, 1954:83–88; van den Steenhoven, 1962: Ch. 4); and, to mention still another example, the Ifugao of the Philippines hold that any "self-respecting man" must kill an adulterer discovered *in flagrante delicto* (Barton, [1919] 1969:66–70). Societies such as these have, in effect, capital punishment administered on a private basis. But unlike penalties imposed by the state, private executions often result in revenge or even a feud, a reciprocal exchange of violence that might last months or years (see, e.g., Otterbein and Otterbein, 1965; Rieder, 1973). Moreover, the person killed in retaliation may not be himself or herself a killer, since in these societies violent conflicts between nonkin are virtually always handled in a framework of collective responsibility—or, more precisely, collective liability—whereby all members of a family or other group are accountable for the conduct of their fellows (see, e.g., Moore, 1972).

Violence of other kinds also expresses a grievance in most instances. Among the Yanomamö of Venezuela and Brazil, for example, women are routinely subjected to corporal punishment by their husbands: "Most reprimands meted out by irate husbands take the form of blows with the hand or with a piece of firewood, but a good many husbands are even more brutal" (Chagnon, 1977:82–83). In parts of East Africa, "Husbands often assault their wives, sometimes with a slap, sometimes with a fist, a foot, or a stick" (Edgerton, 1972:164); and among the Qolla of Peru, a husband may beat his wife "when her behavior warrants it," such as when she is "lazy" or "runs around with other men" (Bolton and Bolton, 1973:64). Another punishment for women in some societies is rape by a group of men, or "gang rape" (e.g., Llewellyn and

Hoebel, 1941:202–210). Everywhere, however, it appears that most violence is inflicted upon men by other men.

Property destruction may also be a mode of social control. An extreme form is house burning, a practice quite frequent, for example, in parts of East Africa (Edgerton, 1972:164). Animals, gardens, or other property might be destroyed as well. Among the Cheyenne of the American Plains, a man's horse might be killed (Llewellyn and Hoebel, 1941:117), and in northern Albania, a dog might be killed (Hasluck, 1954:76–78). In one case in Lebanon (later punished as a crime), an aggrieved man cut the branches off his adversary's walnut tree (Rothenberger, 1978:169). Among the Qolla, crops are sometimes damaged as a punishment, such as "when a man methodically uproots his enemy's potato plants before they have produced any tubers" (Bolton, 1973:234). Netsilik Eskimos may subtly encourage their children to destroy an offender's cache of food, so that what appears to be mischief or vandalism may actually be a carefully orchestrated act of revenge (van den Steenhoven, 1962:74).

Property may also be confiscated as a form of social control, so that what might at first appear to a modern observer as unprovoked theft or burglary proves in many cases to be a response to the misconduct of the victim. Among the Mbuti Pygmies of Zaire, for instance, a seeming theft may be recognized by all as an "unofficial sanction" against a person who has incurred "public disapproval for some reason or another" (Turnbull, 1965:199). Among the Qolla, the moralistic character of a theft is especially clear "when the object stolen has no value to the thief" (Bolton, 1973:233). Lastly, it might be noted that where women are regarded as the property of their fathers or husbands, rape may provide a means of retaliation against a man. This seems to have been involved in some of the gang rapes recorded as crimes in fourteenth-century England, for example, where even a widow might be attacked by a group of men as an act of revenge against her deceased husband (Hanawalt, 1979:109, 153). In some cases, then, rape may be construed as another kind of confiscation.

MODERN SELF-HELP

A great deal of the conduct labelled and processed as crime in modern societies resembles the modes of conflict management—described above—that are found in traditional societies which have little or no law (in the sense of governmental social control—Black, 1972:1096). Much of this conduct is intended as a punishment or other expression of disapproval, whether applied reflectively or impul-

sively, with coolness or in the heat of passion. Some is an effort to achieve compensation, or restitution, for a harm that has been done. The response may occur long after the offense, perhaps weeks, months, or even years later; after a series of offenses, each viewed singly as only a minor aggravation but together viewed as intolerable; or as an immediate response to the offense, perhaps during a fight or other conflict, or after an assault, theft, insult, or injury.

As in tribal and other traditional societies, for example, most intentional homicide in modern life is a response to conduct that the killer regards as deviant. In Houston during 1969, for instance, over one-half of the homicides occurred in the course of a "quarrel," and another one-fourth occurred in alleged "self-defense" or were "provoked," whereas only a little over one-tenth occurred in the course of predatory behavior such as burglary or robbery (calculated from Lundsgaarde, 1977:237; see also Wolfgang, [1958] 1966: Ch. 10). Homicide is often a response to adultery or other matters relating to sex, love, or loyalty, to disputes about domestic matters (financial affairs, drinking, house-keeping) or affronts to honor, to conflicts relating to debts, property, and child custody, and to other questions of right and wrong. Cases mentioned in the Houston study include one in which a young man killed his brother during a heated discussion about the latter's sexual advances toward his younger sisters, another in which a man killed his wife after she "dared" him to do so during an argument about which of several bills they should pay, one where a woman killed her husband during a quarrel in which the man struck her daughter (his stepdaughter), one in which a woman killed her 21-year-old son because he had been "fooling around with homosexuals and drugs," and two others in which people died from wounds inflicted during altercations over the parking of an automobile (Lundsgaarde, 1977). Like the killings in traditional societies described by anthropologists, then, most intentional homicide in modern society may be classified as social control, specifically as self-help, even if it is handled by legal officials as crime.⁴ From this standpoint, it is apparent

that capital punishment is quite common in modern America—in Texas, homicide is one of the ten leading causes of death—though it is nearly always a private rather than a public affair.

Most conduct that a lawyer would label as assault may also be understood as self-help. In the vast majority of cases the people involved know one another, usually quite intimately, and the physical attack arises in the context of a grievance or quarrel (see, e.g., Vera Institute, 1977:23–42). Commonly the assault is a punishment, such as when a husband beats or otherwise injures his wife because she has not lived up to his expectations. In one case that came to the attention of the police in Boston, for example, a woman complained that her husband had beaten her because supper was not ready when he came home from work (Black, 1980:161), a state of affairs, incidentally, which might have been the woman's own way of expressing disapproval of her husband (see Baumgartner, 1983: forthcoming). Other standards are enforced violently as well. In one instance that occurred in a major northeastern city and that apparently was not reported to the police, a young woman's brothers attacked and beat her boyfriend "for making her a drug addict," and in another a young man was stabbed for cooperating with the police in a burglary investigation (Merry, 1981:158, 180–181). In a case in Washington, D.C., that resulted in an arrest, a boy shot his gang leader for taking more than his proper share of the proceeds from a burglary (Allen, 1977:40–43). Years later, the same individual shot someone who had been terrorizing young women—including the avenger's girlfriend—in his neighborhood. Though he pleaded guilty to "assault with a deadly weapon" and was committed to a reformatory, not surprisingly he described himself as "completely right" and his victim as "completely wrong" (Allen, 1977:62–66, 69–70).

Indigenous people arrested for violence in colonial societies are likely to have a similar point of view: They may be proud of what they have done and admit it quite openly, even while they are being prosecuted as criminals by the foreign authorities.⁵ Those apprehended in

⁴ Crimes of self-help may be distinguished from other categories of conduct regarded as criminal, such as certain kinds of economic behavior (e.g., predatory robbery and the selling of illicit goods and services) and recreation (e.g., gambling and underage drinking of alcoholic beverages). This is not to deny that some crime is multidimensional; for instance, an incident might be both moralistic and predatory at the same time, as when someone is killed in a quarrel but then robbed as well.

⁵ This reportedly applied, for example, to the Nuer of the Sudan when they lived under British rule:

I have been told by [a British] officer with wide experience of Africans that Nuer defendants are remarkable in that they very seldom lie in cases brought before Government tribunals. They have no need to, since they are only anxious to justify the damage they have caused by showing that it is retaliation for damage the plaintiff has inflicted earlier. (Evans-Pritchard, 1940:171–72)

Europe for the crime of duelling—also a method of conflict resolution—have typically lacked remorse for the same reasons (see Pitt-Rivers, 1966:29–31). Thus, when asked by a priest to pray for forgiveness before being hanged for killing a man with a sword, one such offender in France exclaimed, “Do you call one of the cleverest thrusts in Gascony a crime?” (Baldick, 1965:62). As in duelling, moreover, violence in modern societies is often prescribed by a code of honor. He who shrinks from it is disgraced as a coward (see, e.g., Werthman, 1969; Horowitz and Schwartz, 1974).

Many crimes involving the confiscation or destruction of property also prove to have a normative character when the facts come fully to light. There are, for example, moralistic burglaries, thefts, and robberies. Over one-third of the burglaries in New York City resulting in arrest involve people with a prior relationship (Vera Institute, 1977:82), and these not infrequently express a grievance the burglar has against his victim. In one such case handled by the Boston police, for instance, a woman who had been informed by a neighbor complained that while she was away “her estranged husband had entered her apartment, wrecked it, loaded all of her clothes into his car, and driven away, presumably headed for his new home several hundred miles away” (Black, 1980:115). Though the specific nature of this man’s grievance was not mentioned, it seems apparent that his actions were punitive to some degree, and surely his estranged wife understood this as well. In a case in New York City, one resulting in two arrests for burglary, two black women barged into the home of an elderly white woman at midnight to confront her because earlier in the day she had remonstrated with their children for throwing rocks at her window (Vera Institute, 1977:88). A crime may also be committed against a particular individual to express the disapproval of a larger number of people, such as a neighborhood or community, as is illustrated by the report of a former burglar who notes in his autobiography that early in his career he selected his victims partly on moralistic grounds:

We always tried to get the dude that the neighbors didn’t like too much or the guy that was hard on the people who lived in the neighborhood. . . . I like to think that all the places we robbed, that we broke into, was kind of like the bad guys. (Allen, 1977:39–40)

It should be clear, however, that the victims of moralistic crime may be entirely unaware of why they have been selected, especially when the offender is unknown. Such crimes may

therefore be understood as secret social control (compare Becker, 1963:20).

Another possible mode of self-help is robbery, or theft involving violence. Thus, in New York City, where over one-third of the people arrested for robbery are acquainted with their victims, the crime often arises from a quarrel over money (Vera Institute, 1977:65–71). In one case, for example, a woman reported that her sister and her sister’s boyfriend had taken her purse and \$40 after assaulting her and threatening to kill her baby, but she later explained that this had arisen from a misunderstanding: The boyfriend wanted reimbursement for a baby carriage that he had bought for her, whereas she thought it had been a gift (Vera Institute, 1977:69–70). It seems, in fact, that in many instances robbery is a form of debt collection and an alternative to law. The same applies to embezzlement, though it may also simply express disapproval of the employer who is victimized (see Cressey, 1953:57–59, 63–66).

Conduct known as vandalism, or malicious destruction of property, proves to be a form of social control in many cases as well. Far from being merely “malicious,” “non-utilitarian,” or “negativistic,” with “no purpose, no rhyme, no reason” (Cohen, 1955:25–30, including quoted material in note 4), much vandalism in modern society is similar to the moralistic destruction of crops, animals, and other valuables in traditional societies. But whereas, say, a Plains Indian might kill a horse, a modern agent of justice might damage the offender’s automobile. Thus, in one American neighborhood where parking spaces on the street are scarce, the residents have evolved their own distribution system, with its own customary rules and enforcement procedures. In the winter, one such rule is that whoever shovels the snow from a parking space is its “owner,” and persistent violators may find that their automobile has been spraypainted or otherwise abused (Thomas-Buckle and Buckle, 1982:84, 86–87). Vandalism may also be reciprocated in a feud-like pattern of mutual destruction: In one case in a northeastern city, a young man found that someone had broken the radio antenna on his automobile, learned from some children who had done it, and thereupon proceeded to slash the tires of the offender’s automobile (Merry, 1981:179).

Business places and dwellings may be damaged to punish their owners or inhabitants. Arson, or burning, has a long history of this kind (see, e.g., Hanawalt, 1979:90–91). Less severe sanctions, however, are far more frequent. In a case occurring in a suburb of New York City, for example, a young man drove his car across someone’s lawn during a quarrel, and in an-

other incident in the same community several young men spraypainted parts of an older man's house in the middle of the night because he had called the police to disperse them when they were sitting in their cars drinking beer and listening to music (Baumgartner, forthcoming). If all of the facts were known, then, it seems likely that much seemingly senseless and random vandalism would prove to be retaliation by young people against adults (see Greenberg, 1977:202–204). Some may even be done by children on behalf of their parents, in a pattern analogous to that found among the Eskimos mentioned earlier (for a possible example, see Black, 1980:167–68). If the parents themselves are the offenders, however, other strategies might be followed. Among the Tarahumara Indians of northern Mexico, children with a grievance against their parents often “run away” from home, staying with an uncle or grandparent for a few days before returning (Fried, 1953:291). Qolla children have a similar custom, locally known as “losing themselves” (Bolton and Bolton, 1973:15–16). Modern children do this as well, though like vandalism it is commonly regarded as a form of juvenile delinquency.

Finally, it might be noted that the practice of collective liability—whereby all of the people in a social category are held accountable for the conduct of each of their fellows—occurs in modern as well as traditional societies. This is most apparent during a war, revolution, or riot, when anyone might suffer for the deeds of someone else, but during peaceful times too, seemingly random violence may often be understood in the same way. Today a police officer might become the victim of a surprise attack by a stranger, for example, because of the conduct of one or more fellow officers in the past. Seemingly random crime of other kinds may involve collective liability as well. Thus, for instance, a black rapist described his selection of white victims as a process of vengeance against white people in general:

It delighted me that I was defying and trampling upon the white man's law, upon his system of values, and that I was defiling his women—and this point, I believe, was the most satisfying to me because I was very resentful over the historical fact of how the white man has used the black woman. I felt I was getting revenge. (Cleaver, 1968:14)

Similarly, a former burglar and robber remarked that he once selected his victims primarily from a relatively affluent neighborhood, but not simply because this provided a chance of greater material gain: “I really disliked them people, ‘cause it seemed like they thought they was better ‘cause they had more”

(Allen, 1977:32–33). People might be held collectively liable because of their neighborhood, social class, race, or ethnicity. Crime by young people against adult strangers may also have this logic in some cases: All adults might be held liable for the conduct of those known personally, such as police, teachers, and parents.⁶ Among young people themselves, particularly in large American cities, rival “gangs” may engage in episodic violence resembling the feud in traditional settings, where each member of a feuding group is liable—to injury or even death—for the conduct of the other members (see, e.g., Yablonsky, 1962). A significant amount of crime in modern society may even resemble what anthropologists describe as “raiding,” a kind of predatory behavior often directed at people collectively defined as deserving of revenge (see, e.g., Sweet, 1965; Schneider, 1971:4). And some might properly be construed as “banditry” since it seems to be a kind of primitive rebellion by those at the bottom of society against their social superiors (see Hobsbawm, 1969). In short, although much crime in modern society directly and unambiguously expresses a grievance by one person against another, this may be only the most visible portion of a much broader phenomenon.

THEORETICAL CONSIDERATIONS

When a moralistic crime is handled by the police or prosecuted in court, the official definition of the event is drastically different from that of the people involved, particularly from that of the alleged offender. In the case of a husband who shoots his wife's lover, for example, the definition of who is the offender and who is the victim is reversed: The wife's lover is defined as the victim, even though he was shot because of an offense he committed against the woman's husband. Moreover, the lover's offense is precisely the kind for which violent social control—by the husband—is viewed as acceptable and appropriate, if not obligatory, in numerous tribal and other traditional societies. Even in modern society, it

⁶ It might be added that subpopulations such as women, old people, and the poor may be particularly vulnerable to vengeance of this kind. Seen in cross-cultural perspective, this is not inconsistent with systems of collective liability. In some tribal societies, for example, retaliation may be taken against those who are physically less dangerous, such as women and children, and against those who are less likely to be revenged, such as social isolates and visitors (e.g., Koch, 1974:132–54). On the other hand, a “code of honor” may govern revenge and limit it, for instance, to adult males able to defend themselves (e.g., Hasluck, 1954: Ch.24).

might be said that the husband is charged with violating the criminal law because he enforced his rights in what many regard as the customary law of marriage. The victim thus becomes the offender, and vice versa. The state prosecutes the case in its own name, while the original offender against morality (if alive) serves as a witness against the man he has victimized—surely a perverse proceeding from the standpoint of the defendant (compare Christie, 1977). It is also enlightening in this regard to consider criminal cases arising from quarrels and fights, where each party has a grievance against the other. Here the state often imposes the categories of offender and victim upon people who were contesting the proper application of these labels during the altercation in question. Whether there was originally a cross-complaint or not, however, in all of these cases the state defines someone with a grievance as a criminal. The offense lies in how the grievance was pursued. The crime is self-help.

It should be apparent from much of the foregoing that in modern society the state has only theoretically achieved a monopoly over the legitimate use of violence (compare, e.g., Weber, [1919] 1958:78; Elias, [1939] 1978:201–202). In reality, violence flourishes (particularly in modern America), and most of it involves ordinary citizens who seemingly view their conduct as a perfectly legitimate exercise of social control. It might therefore be observed that the struggle between law and self-help in the West did not end in the Middle Ages, as legal historians claim (e.g., Pollock and Maitland, [1898] 1968: Vol. 2, 574; Pound, 1921:139–40; see also Hobhouse, 1906: Ch.3). It continues.⁷ Many people still “take the law into their own hands.” They seem to view their grievances as their own business, not that of the police or other officials, and resent the intrusion of law (see Matza, 1964: Ch.5). They seem determined to have justice done, even if this means that they will be defined as criminals.⁸ Those who commit murder, for example,

often appear to be resigned to their fate at the hands of the authorities; many wait patiently for the police to arrive; some even call to report their own crimes (see generally Lundsgaarde, 1977). In cases of this kind, indeed, the individuals involved might arguably be regarded as martyrs. Not unlike workers who violate a prohibition to strike—knowing they will go to jail—or others who defy the law on grounds of principle, they do what they think is right, and willingly suffer the consequences.

Deterrence and Self-Help

To the degree that people feel morally obligated to commit crimes, it would seem that the capacity of the criminal law to discourage them—its so-called deterrent effect—must be weakened. For example, homicides committed as a form of capital punishment would seem to be more difficult to deter than those committed entirely in pursuit of personal gain (on the deterrability of the latter, see Chambliss, 1967). This is not to deny that moralistic homicide can be discouraged to some extent. In fact, one former resident of Harlem has noted that the inhabitants of that unusually violent area appear to debate in their own minds whether or not moralistic homicide is ultimately worth its legal consequences:

I think everybody was curious about whether or not it was worth it to kill somebody and save your name or your masculinity, defend whatever it was that had been offended—whether it was you or your woman or somebody in your family. (Brown, 1965:220)

He adds that during his years in Harlem this question loomed especially large whenever anyone was executed in prison (Brown, 1965:220). That the desirability of killing another person is entertained at all is remarkable, however, particularly when the death penalty is believed to be a possible result (a belief that appears to be largely unfounded—see below). Furthermore, since other crimes of self-help carry fewer risks of a legal nature, they should be even harder to discourage than homicide. In any event, a theory of deterrence surely should recognize that the power of punishment to deter crime partly depends upon whether a given crime is itself a form of social control (for other relevant variables see, e.g., Andenaes, 1966; Chambliss, 1967; Zimring, 1971).

A related question is the extent to which victimizations are deterred by self-help rather than—or in addition to—law. Although many citizens are entirely dependent upon legal officials such as the police to handle criminal of-

⁷ The struggle, however, was once vastly more rancorous and spectacular, in many cases involving open confrontations between those engaging in self-help—along with their supporters—and the authorities who regarded their conduct as criminal. In medieval England, for example, a prisoner's friends might forcibly seize him from the sheriff, and in some instances armed bands violently challenged the authorities in the courtroom itself (see, e.g., Pike, 1873:257–58).

⁸ It has been suggested that offenders often condemn their victims merely in order to “neutralize” their own feelings of guilt (Sykes and Matza, 1957:668). By contrast, the argument here is that in many cases condemnations of this kind may be authentic. Some criminals may be telling the truth.

fenders, others are prepared to protect themselves and their associates by any means at their disposal, including violence. It is well known among potential predators in one American neighborhood, for example, that a number of the residents would be dangerous to victimize, in some cases because they enjoy the protection of family members who act as their champions (see Merry, 1981:178–79). Such people are left alone. Entire segments of a community may also be avoided from fear of retaliation. For example, for this reason some thieves and robbers may avoid the poor: “One of the most dangerous things in the world is to steal from poor people. . . . When you steal from the poor, you gamble with your life” (Brown, 1965:214; see also Allen, 1977: 50–52). Moreover, since the deterrent effect of social control generally increases with its severity (see Zimring, 1971:83–90, for qualifications), it should be noted that self-help is often more severe than law. Thus, a burglar or robber might be executed by his intended victim, though burglary and robbery are generally not capital crimes in modern codes of law. Accordingly, to the degree that self-help is effectively repressed by the state, crime of other kinds might correspondingly increase. Among the Gusii of Kenya, for instance, rape dramatically increased after the British prohibited traditional violence against strangers—potential rapists—and, when a rape occurred, violence against the offender and possibly his relatives (Le Vine, 1959:476–77).⁹ Perhaps some of the predatory crime in modern society is similarly a result of a decline in self-help.

The Processing of Self-Help

Even while the ancient struggle between law and self-help continues, the response of legal officials to those handling their own grievances by force and violence is not nearly so severe as might be supposed. In fact, crimes of self-help are often handled with comparative leniency. An extreme of this pattern was seen historically, for example, in the generous application

of the concept of “self-defense” to justify homicide—otherwise by law a capital offense—in medieval England: In cases in which a killing involved social control, it appears that juries routinely avoided a conviction by fabricating a version of the incident in which the victim had first attacked the defendant, forcing him to resist with violence in order to save his own life (Green, 1976:428–36). Likewise, in more recent centuries European authorities and juries have generally been reluctant to enforce laws against duelling (see Baldick, 1965: Chs.4–7; Andrew, 1980). Earlier in the present century, the same applied to the handling of so-called lynchings in the American South—executions carried out by a group of private citizens, usually against a black man believed to have victimized a white. Typically no one was arrested, much less prosecuted or punished, though the killers frequently were well known and readily available (see, e.g., Raper, 1933). Today, much violent self-help is still tolerated by American officials and juries. Incidents that a lawyer would normally classify as felonious assault, for example—involving severe bodily injury or the threat thereof—are unlikely to result in arrest if the offender and victim are intimately related (Black, 1980:180–85; see also Black, 1971:1097–98). Where an arrest is made, prosecution and conviction are far less likely when the offense entails an element of self-help. Thus, in Houston, people whom the police arrest for homicide are often released without prosecution, and in many cases this seems to be related to the moralistic nature of the killing. In 1969, 40 percent of those arrested for killing a relative (such as a spouse or sibling) were released without prosecution, and the same applied to 37 percent of those arrested for killing a friend or other associate and to 24 percent of those arrested for killing a stranger (Lundsgaarde, 1977:232). And offenses that do initially result in prosecution are likely to be abandoned or dismissed at a later point in the process when self-help is involved, such as when a burglary or robbery is committed in order to collect an unpaid debt (see, e.g., Vera Institute, 1977:69–70, 87–88). At every stage, then, crimes of self-help often receive a degree of immunity from law (but see below).

If the capacity of law to deter crimes of self-help is weak in the first place, surely this leniency, insofar as it is known among the population, makes it weaker still. But it might be wondered why so much self-help occurs in a society such as modern America. Why do so many people criminally pursue their own grievances in a society where law is developed to such a high degree? Why, in particular, are they so violent?

⁹ It appears that predatory behavior within tribal and peasant villages is often effectively deterred by the threat of self-help. This was the impression, for example, of an anthropologist who studied the Nuer of the Sudan: “It is the knowledge that a Nuer is brave and will stand up against aggression and enforce his rights by club and spear that ensures respect for person and property” (Evans-Pritchard, 1940:171). Why people in any society refrain from victimizing their fellows raises difficult questions of motivation, however, and lies beyond the scope of the present discussion.

The Theory of Self-Help

Several centuries ago, Thomas Hobbes argued that without a sovereign state—without law—a “war of every one against every one” would prevail, and life would be “solitary, poor, nasty, brutish, and short” [1651] 1962:100). Many stateless societies have since been observed by anthropologists, however, and Hobbes’s theory has proven to be somewhat overstated: Life without law does not appear to be nearly as precarious as he believed (see, e.g., Middleton and Tait, [1958] 1970; MacCormack, 1976; Roberts, 1979). Even so, the idea that violence is associated with statelessness still enjoys considerable support. With various refinements and qualifications, an absence of state authority has been used to explain high levels of violence in settings as diverse as the highlands of New Guinea (Koch, 1974: Ch.7), Lake Titicaca in the Andes (Bolt, 1970:12–16), and western Sicily (Blok, 1974:210–12).¹⁰ It has also been used to explain war and other violent self-help in international relations (e.g., Hoffmann, 1968; Koch, 1974:173–75). A version of the same approach may be relevant to an understanding of self-help in modern society.

Hobbesian theory would lead us to expect more violence and other crimes of self-help in those contemporary settings where law—governmental social control—is least developed, and, indeed, this appears to fit the facts: Crimes of self-help are more likely where law is less available. This is most apparent where legal protection is withheld as a matter of public policy, such as where a contract violates the law. A gambling debt is not legally enforceable, for example, and the same applies to transactions in illicit narcotics, prostitution, stolen goods, and the like. Perhaps for this reason many underworld businesses find it necessary to maintain, in effect, their own police, such as the “strong-arms” of illegal loan operations and the “pimps” who oversee the work of prostitutes (see, e.g., Allen, 1977:100). Furthermore, it appears that social control within settings of this kind is relatively violent (but see Reuter, 1983).

Law is unavailable, or relatively so, in many other modern settings as well, though not necessarily as a matter of public policy. A teenager with a grievance against an adult, for example, will generally be ignored or even reprimanded by the police (Black, 1980:152–55).

¹⁰ A cross-cultural survey of 50 societies shows that those with the least “political integration”—which means, *inter alia*, those without a state—are the most likely to have “coercive self-help” as their dominant mode of conflict management (Koch and Sodergren, 1976:454–55).

Lower-status people of all kinds—blacks and other minorities, the poor, the homeless—enjoy less legal protection, especially when they have complaints against their social superiors, but also when conflict erupts among themselves (see Black, 1976: Chs.2–6). To the police and other authorities the problems of these people seem less serious, their injuries less severe, their honor less important.¹¹ A fight or quarrel among them may even be viewed as itself a “disturbance of the peace,” an offense in its own right, regardless of the issues dividing the parties (see Black and Baumgartner, 1983: forthcoming). People in intimate relationships, too, such as members of the same family or household, find that legal officials are relatively unconcerned about their conflicts, particularly if they occur in private and do not disturb anyone else (see Black, 1976:40–44, 1980: Ch.5).¹² In all of these settings neglected by law, crimes of self-help are comparatively common. There are, so to speak, stateless locations in a society such as modern America, and in them the Hobbesian theory appears to have some validity.¹³

¹¹ It should also be recognized that people in these settings are relatively unlikely to bring their grievances to legal officials in the first place. For instance, it would not occur to most teenagers to call the police about an adult, and the same generally applies when someone has a grievance against an intimate such as a spouse or friend (but see Black, 1980: Ch.5, especially 124–28). It might even be said that many people choose statelessness as a way of life. This pattern presumably undermines still further the capacity of law to deter crimes of self-help.

¹² To a degree, self-help may function—whether by design or not—as a mechanism through which law is mobilized among those who might otherwise be ignored. In at least one tribal society, the Meta’ of the Cameroon, it appears that violence was consciously employed as a technique of this kind: Village elders were empowered to arbitrate disputes only if the parties became violent, and so it was not uncommon for people to initiate a fight in order to assure a hearing of their case (Dillon, 1980:664). Children in many societies seem to use the same technique to mobilize adults. In some instances, violence in modern society may similarly serve as a cry for help from people who are less capable of attracting legal attention without it. Reports of violence occasionally may even be fabricated in order to assure that the police will handle cases that the callers fear—possibly with justification—would otherwise be dismissed as trivial (for a likely example, see Black, 1980:151). But then, as noted earlier, the police are likely to respond with indifference anyway.

¹³ It might be added that the opposite of statelessness can occur as well, with opposite results: The availability of law can be extended to such a degree that it almost entirely displaces self-help. People can become so dependent upon law that they are unwill-

Before closing, it is possible to specify the relationship between law and self-help more precisely. The likelihood of self-help is not merely a function of the availability of law, and, moreover, crimes of self-help are not always handled leniently by legal officials. Different locations and directions in social space have different patterns. In other words, the relationship between law and self-help depends upon who has a grievance against whom.

Four patterns can be identified: First, law may be relatively unavailable both to those with grievances and to those who are the objects of self-help, as when people of low status and people who are intimate have conflicts with each other (on the distribution of law, see generally Black, 1976). This pattern has been emphasized above. Secondly, law may be relatively unavailable to those with grievances in comparison to those who have offended them. Should the former employ self-help, they may therefore be vulnerable to harsh treatment by legal officials. This is the situation of people with a grievance against a social superior, such as a teenager with a grievance against an adult, and may help to explain why they tend to develop their own techniques of social control, including, for instance, covert retaliation, self-destruction, and flight (see Baumgartner, 1983). Those with grievances against a social inferior illustrate a third pattern: Law is readily available to them, but not to those against whom they might employ self-help. In this situation, the aggrieved party seemingly has a choice of law or self-help. A man might easily obtain legal help against his teenaged son, for example, but if he simply beats the boy instead—a kind of self-help—he is unlikely to be handled with severity by the police or other officials (see Black, 1980:152–55). The fourth possibility, where law is readily available both to those with grievances and to those who have offended them, is seen where people of high status, and also people who are strangers, have conflicts with each other. Here self-help seems to be relatively infrequent. In sum, law and

self-help are unevenly distributed across social space, and each is relevant to the behavior of the other.¹⁴

CONCLUSION

The approach taken in this paper departs radically from traditional criminology (as seen, e.g., in Cohen, 1955; Miller, 1958; Cloward and Ohlin, 1960; Sutherland and Cressey, 1960). Indeed, the approach taken here is, strictly speaking, not criminological at all, since it ignores whatever might be distinctive to crime as such (including, for example, how criminals differ from other people or how their behavior differs from that which is not prohibited). Instead it draws attention to a dimension of many crimes that is usually viewed as a totally different—even opposite—phenomenon, namely, social control. Crime often expresses a grievance. This implies that many crimes belong to the same family as gossip, ridicule, vengeance, punishment, and law itself. It also implies that to a significant degree we may predict and explain crime with a sociological theory of social control, specifically a theory of self-help. Beyond this, it might be worthwhile to contemplate what else crime has in common with conduct of other kinds. As remarked earlier (in note 4), for instance, some crime may be understood as economic behavior, and some as recreation. In other words, for certain theoretical purposes we might usefully ignore the fact that crime is criminal at all.¹⁵ The criminality of crime is defined by law, and therefore falls within the jurisdiction of a completely different theory (see especially Black, 1976).

¹⁴ It should also be understood that other conditions besides the availability of law are relevant to the incidence of self-help in each of its various manifestations. After all, no effort has been made here to develop a comprehensive theory of self-help. The analysis has been intended merely to indicate the relevance of such a theory and to offer a single formulation that it might include. Furthermore, it should be clear that despite the emphasis upon contemporary society in the present discussion, a sociological theory of self-help would ideally apply to all instances of this phenomenon, traditional as well as modern.

¹⁵ This is not to deny that the definition of conduct as criminal may be relevant to its form and frequency. Even so, a given category of crime may share more with particular kinds of noncriminal conduct than with other crime. The use of illicit drugs is seemingly more similar to the legal consumption of alcoholic beverages than to robbery or rape, for example, and extortion is seemingly closer to the practices of many landlords, physicians, and corporations than to vandalism, trespassing, or treason.

ing to handle their own grievances. It appears, in fact, that this extreme is almost reached by so-called totalitarian societies, such as the Soviet Union under Stalin or Germany under Hitler, where the state insinuates itself throughout the population by actively encouraging citizens to make use of its coercive apparatus however they see fit. Since apparently nearly anyone can have nearly anyone else sent to prison, each person is dangerous to others, and yet vulnerable to them at the same time (see Gross, 1983). The result seems almost what Hobbes called a "war of every one against every one," but within the framework of a state. Under these conditions, self-help tends to wither away.

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